

Assembly Bill No. 1401

CHAPTER 557

An act to amend Section 1308.5 of, and to add Section 1308.10 to, the Labor Code, relating to employment.

[Approved by Governor October 7, 2011. Filed with
Secretary of State October 7, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1401, Committee on Arts, Entertainment, Sports, Tourism, and Internet Media. Employment: minors.

Existing law regulates the employment of minors in the entertainment industry and requires the written consent of the Labor Commissioner for a minor under the age of 16 to take part in certain types of employment.

This bill would establish a program to be administered by the Labor Commissioner that would enable a minor's parent or guardian, prior to the first employment of a minor performer and under specified conditions, to obtain a temporary permit for the employment of a minor. This bill would also create the Entertainment Work Permit Fund into which would be deposited an application fee, set by the Labor Commissioner, that would be required for the issuance of a temporary permit. Upon appropriation by the Legislature, the proceeds from this fund would be used to pay the costs of administering the temporary minor's entertainment work permit program.

This bill would also authorize the Labor Commissioner, on a one-time basis, to borrow and repay up to \$250,000 from the Labor Enforcement and Compliance Fund to the Entertainment Work Permit Fund to pay for startup costs incurred in the creation of the program.

The people of the State of California do enact as follows:

SECTION 1. Section 1308.5 of the Labor Code is amended to read:

1308.5. (a) This section, with the exception of paragraph (4) of this subdivision, shall apply to all minors under the age of 16 years. The written consent of the Labor Commissioner in the form of a permit to employ a minor in the entertainment industry is required for any minor, not otherwise exempted by this chapter, for any of the following:

- (1) The employment of any minor, in the presentation of any drama, legitimate play, or in any radio broadcasting or television studio.
- (2) The employment of any minor 12 years of age or over in any other performance, concert, or entertainment.
- (3) The appearance of any minor over the age of eight years in any performance, concert, or entertainment during the public school vacation.

(4) Allowing any minor between the ages of 8 and 18 years, who is by any law of this state permitted to be employed as an actor, actress, or performer in a theater, motion picture studio, radio broadcasting studio, or television studio, before 10 p.m., in the presentation of a performance, play, or drama continuing from an earlier hour until after 10 p.m., to continue his or her part in such presentation between the hours of 10 p.m. and midnight.

(5) The appearance of any minor in any entertainment which is noncommercial in nature.

(6) The employment of any minor artist in the making of phonograph recordings.

(7) The employment of any minor as an advertising or photographic model.

(8) The employment or appearance of any minor pursuant to a contract approved by the superior court under Chapter 3 (commencing with Section 6750) of Part 3 of Division 11 of the Family Code.

(b) Any person, or the agent, manager, superintendent, or officer thereof, employing either directly or indirectly through third persons, or any parent or guardian of a minor who employs, or permits any minor to be employed in violation of any of the provisions of this section is guilty of a misdemeanor. Failure to produce the written consent from the Labor Commissioner is prima facie evidence of the illegal employment of any minor whose written consent is not produced.

SEC. 2. Section 1308.10 is added to the Labor Code, to read:

1308.10. (a) Prior to the employment of a minor under the age of 16 years in any of the circumstances listed in subdivision (a) of Section 1308.5, the Labor Commissioner may issue a temporary permit authorizing employment of the minor to enable a parent or guardian of the minor to meet the requirement for a permit under subdivision (a) of Section 1308.5 and to establish a trust account for the minor or to produce the documentation required by the Labor Commissioner for the issuance of a permit under Section 1308.5, subject to all of the following conditions:

(1) A temporary permit shall be valid for a period not to exceed 10 days from the date of issuance.

(2) A temporary permit shall not be issued for the employment of a minor if the minor's parent or guardian has previously applied for or been issued a permit by the Labor Commissioner pursuant to Section 1308.5 or a temporary permit pursuant to this section for employment of the minor.

(3) The Division of Labor Standards Enforcement shall prepare and make available on its Internet Web site the application form for a temporary permit. An applicant for a temporary permit shall submit a completed application and application fee online to the division. Upon receipt of the completed application and fee, the division shall immediately issue a temporary permit.

(b) The Labor Commissioner shall deposit all fees for temporary permits received into the Entertainment Work Permit Fund, which is hereby created in the State Treasury. The funds deposited in the Entertainment Work Permit Fund shall be available to the Labor Commissioner, upon appropriation by the Legislature, to pay for the costs of administration of the online temporary

minor's entertainment work permit program and to repay any loan from the Labor Enforcement and Compliance Fund made pursuant to subdivision (c).

(c) The Labor Commissioner is authorized on a one-time basis to borrow up to two hundred fifty thousand dollars (\$250,000) from the Labor Enforcement and Compliance Fund, as established by subdivision (e) of Section 62.5, for deposit in the Entertainment and Compliance Fund to cover the one-time startup costs related to the temporary permit program. The loan shall be repaid to the Labor Enforcement and Compliance Fund as soon as sufficient funds exist in the Entertainment Work Permit Fund to repay the loan without compromising the operations of the temporary work permit program.

(d) The Labor Commissioner shall set forth the fee in an amount sufficient to pay for these costs, but not to exceed fifty dollars (\$50).